

**VRP BROWNFIELDS ASSISTANCE
APPLICATION PACKAGE**

December 16, 2009



**Wyoming Department of Environmental Quality
Voluntary Remediation Program
122 West 25th Street, 4 West
Cheyenne, Wyoming 82002**

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APPENDICES

- A. VRP/BA Application Form (for use by Applicants/Volunteers)
- B. VRP/BA Evaluation Form (for use by DEQ)

1. Introduction

Wyoming's Voluntary Remediation Program (VRP) was created by the Wyoming Legislature in 2000 to create new opportunities, procedures, standards and incentives for voluntary remediation of contaminated properties. Since then, owners and perspective purchasers of numerous properties have applied to participate in the VRP. In order to encourage more people to participate in the VRP, the Wyoming Department of Environmental Quality (DEQ) obtained a grant from the U.S. Environmental Protection Agency (EPA) to provide technical assistance (Brownfields Assistance) at brownfield properties that are eligible to participate in Wyoming's VRP.

2. Background

Many communities in Wyoming have properties that are abandoned or underutilized because of known or suspected environmental contamination. These properties, which are known as "brownfields", may require some level of investigation and cleanup before they are safe for reuse or redevelopment. Due to the potentially high costs of investigation and cleanup and the relatively low cost of "green" or undeveloped land, these brownfield properties are often passed over for consideration when a community needs a new park or a business needs to expand or relocate.

The DEQ can help local governments, their associated agencies, and quasi-governmental entities under the control of local governments to investigate and cleanup brownfield properties in Wyoming so that they can be brought back into productive use.

Wyoming's Brownfield Assistance (BA) program can provide technical assistance at brownfield sites, which can include:

- A Phase I environmental site assessment, including a background and historical investigation of the previous uses of the property and a preliminary visual site inspection (but no sampling);
- A Phase II environmental site assessment, including sampling activities of site media (e.g., groundwater, surface water, soil) to identify the types and concentrations of contaminants;
- Identification of cleanup options and cost estimates based on future uses and redevelopment plans; and
- Some limited site cleanup activities

Once the DEQ has determined a site is eligible to receive BA assistance, the DEQ will develop a scope of work for the project and hire a contractor to perform the tasks identified in the scope of work. The DEQ will oversee the work activities and is limited to spending no more than \$200,000 per site.

3. Pre-Application Assistance

The DEQ offers pre-application assistance to all potential applicants in an effort to facilitate the utilization of this BA program. Potential applicants may remain anonymous when requesting pre-application assistance.

Interested parties may contact the DEQ to discuss:

- BA eligibility criteria;
- the nature of known or suspected contamination;
- potential reuse/redevelopment opportunities;
- the BA application process;
- the type of technical assistance that is available; and
- the advantages of participating in Wyoming's VRP.

Interested parties that request pre-application assistance should be advised that the DEQ cannot prepare written applications on behalf of the applicant, or guarantee funding for any particular BA project.

Requests for pre-application assistance and questions regarding Wyoming's VRP can be directed to the DEQ at:

Web Page <http://deq.state.wy.us/volremedi/index.asp>

E-Mail volrem@state.wy.us

122 West 25th Street, 4 West
Cheyenne, Wyoming 82002
(307) 777-7752

510 Meadowview Drive
Lander, Wyoming 82520
(307) 332-6924

4. Eligibility Criteria

The following eligibility criteria are applicable to all BA applications. The DEQ will document fulfillment of these eligibility criteria using the BA Evaluation Form (Appendix B).

4.1. Eligible Applicants

Local governments and their associated agencies, and quasi-governmental entities under the control of local governments are eligible to submit applications for BA assistance.

4.2. Ineligible Applicants

Private property owners, the State of Wyoming and federally-recognized Indian tribes are not eligible for BA assistance from the DEQ. However, under certain circumstances, eligible applicants (as described in Section 4.1) may apply for BA assistance on lands that are owned by private parties, the State of Wyoming, or federally-recognized Indian tribes.

Eligible applicants may apply for BA assistance on private property if the private property owner agrees to offset all or a portion of the cost of assessment or cleanup through direct repayment, discount the property's sale price, or some other action that clearly benefits the public. Applications for BA assistance on private property should be accompanied by a

written agreement between the private property owner and the eligible applicant that demonstrates how the public will benefit if technical assistance is provided by the DEQ.

Eligible applicants that apply for BA assistance on property owned by the State of Wyoming or federally-recognized Indian tribes are also strongly encouraged to explain how the public will benefit if technical assistance is provided by the DEQ.

4.3. Eligible Properties

In order for a residential, commercial or industrial property to be eligible for BA assistance, it must meet the definition of a “brownfield site” (as defined by the U.S. EPA) **and** it must be eligible to participate in Wyoming’s VRP.

A “brownfield site” is defined by the U.S. EPA as:

“... real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”

In addition to properties that may be impacted by hazardous substances, pollutants, or contaminants (as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act), brownfield sites can also include properties that may be impacted by:

- controlled substances such as methamphetamine (as defined by Section 102 of the Controlled Substance Act); or
- petroleum or petroleum products (excluding those sites regulated by the Leaking Aboveground and Underground Storage Tank Program under Article 14 of the Environmental Quality Act).

For properties not identified above (e.g., mine scarred lands not eligible for reclamation under the DEQ Abandoned Mine Land Program), and properties owned by the State of Wyoming or federally-recognized Indian tribes, the DEQ can also make property specific determinations upon request.

4.4. Ineligible Properties

The following categories of properties are **not** eligible for BA technical assistance under any conditions:

- Sites that are listed on the National Priorities List (NPL) (<http://www.epa.gov/superfund/sites/npl/index.htm>) or are proposed for listing;
- Sites that are subject to unilateral orders by the DEQ, the Environmental Quality Council, or any Court, or any administrative or judicial orders to which the U.S. Environmental Protection Agency is a party;
- Sites that are subject to the jurisdiction, custody or control of a department, agency, or instrumentality of the United States;
- Commercial solid waste management, incineration and disposal facilities regulated by the Solid and Hazardous Waste Division under Article 5 of the Environmental Quality Act;

- Underground and aboveground storage tanks regulated by the Leaking Aboveground and Underground Storage Tank Program under Article 14 of the Environmental Quality Act;
- Radioactive waste storage facilities subject to Article 15 of the Environmental Quality Act;
- Abandoned mine land sites eligible for reclamation by the Abandoned Mine Lands Program under Article 12 of the Environmental Quality Act;
- Any site where a release resulted from continuous or repeated violations of any law, rule, regulation or order under the Environmental Quality Act; and
- Contamination from waste management or disposal units that are permitted by DEQ, unless DEQ determines that it is not practical to clean up according to the permit requirements.

5. Application Information

Applicants that are interested in obtaining BA assistance need to submit two copies of the VRP/BA Application Form (Appendix A) and a \$500 application fee to:

DEQ Voluntary Remediation Program
122 West 25th Street, 4 West
Cheyenne, Wyoming 82002

The \$500 application fee covers the first ten hours of DEQ oversight. Additional DEQ oversight will be billed at a rate of \$50 per hour and will be invoiced monthly. If the DEQ determines the applicant is not eligible to participate in the VRP or to receive BA assistance, the DEQ will refund the application fee in full. However, if eligible and oversight takes fewer than ten hours, a partial refund will not be given.

6. Application and Selection Process

The DEQ will accept applications for BAs throughout the year to accommodate applicants' project schedules. However, in the event the quantity of BA applications exceeds the DEQ's ability to process applications in a timely and responsible manner, the DEQ may impose a schedule for submitting and reviewing applications. If such a schedule is imposed, it will be posted on the DEQ's web site (www.deq.state.wy.us/volremedi).

All BA applications will be evaluated for eligibility and scored by the DEQ using the eligibility and scoring criteria identified in the BA Evaluation Form (Appendix B). Applicants are encouraged to consider the eligibility and scoring criteria in the process of preparing their BA application (Appendix A). The scoring criteria have been selected to provide a relative indication of the level of commitment to cleanup any contamination that may be present and redevelop/reuse the property to the benefit of the public. In the event that the monetary value of BA applications exceeds the DEQ's resources, the scoring criteria may be used to select and prioritize projects for technical assistance, or otherwise determine the monetary value of technical assistance to be provided.

In some cases, extenuating circumstances not addressed by the scoring criteria may influence the DEQ's decision to provide technical assistance at a particular property. Extenuating circumstances may include:

- The cost of the project is such that it can be accomplished with remaining program funds in a given year.
- Logistical issues such as site access, contracting difficulties, the length of time required to complete work, or other factors preclude initiation of work at a site.
- Another state or federal agency is considering action that may affect the need or scope of proposed work at the site.

If extenuating circumstances such as those described above exist, the DEQ may choose to fund a lower scoring project over a higher scoring project in order to ensure responsible use of available resources.

BA applications will be reviewed and scored by VRP staff members. Within 45 days of receiving an application, the DEQ will provide written notice regarding the applicant's eligibility to receive BA assistance and to participate in Wyoming's VRP. Applicants that receive an unfavorable determination may request an informal meeting with the VRP Coordinator to reconsider the DEQ's determination.

7. Additional Resources

The following resources provide additional information on Brownfields:

National Association of Local Government Environmental Professionals
1333 New Hampshire Ave NW
Washington DC 20036
Phone: (202) 638-6254 Fax: (202) 393-2866
Web Page <http://www.nalgep.org/>

U.S. EPA - Region 8
999 18th Street, Suite 300 (8EPR-B)
Denver, CO 80202-2466
Phone: (800) 227-8917
Web Page www.epa.gov/region08/land_waste/bfhome.html

EPA Brownfields Program reference documents for Wyoming sites ...

- *Brownfields Assessment Demonstration Project – Evanston, WY*
Publication Number: EPA-500-F-98-227
- *Brownfields Cleanup Revolving Loan Fund Pilot – Evanston, WY*
Publication Number: EPA-500-F-99-070
- *Brownfields Assessment Demonstration Project – Kemmerer, WY*
Publication Number: EPA-500-F-98-158
- *Brownfields Cleanup Revolving Loan Fund Pilot – Kemmerer, WY*
Publication Number: EPA-500-F-99-077